

# **Employees' Retirement Board Of Rhode Island Monthly Meeting Minutes Date of Meeting: April 12, 2006**

The Monthly Meeting of the Retirement Board was called to order at 9:00 a.m., Wednesday, April 12, 2006 in the 8<sup>th</sup> Floor Conference Room, 40 Fountain Street, Providence, RI.

## **I. Roll Call of Members**

The following members were present at roll call: Daniel L. Beardsley; Michael R. Boyce; William B. Finelli; John J. Meehan; Louis M. Prata; General Treasurer Paul J. Tavares and Jerome F. Williams, designee for the Director of Administration; James P. Yancy.

Also in attendance: Frank J. Karpinski, ERSRI Executive Director and Attorney William E. O'Gara, Board Counsel.

Recognizing a quorum, Treasurer Tavares called the meeting to order.

Rosemary Booth Gallogly arrived at 9:05 a.m.

Linda C. Riendeau arrived at 9:10 a.m.

## **II. Approval of Minutes**

On a motion by Jerome F. Williams and seconded by James P. Yancy, it was

**VOTED: To approve the minutes of the March 8, 2006 meeting of the Employees' Retirement System of Rhode Island Board.**

## **III. Chairman's Report**

Treasurer Tavares informed the Board that on March 3, 2006, Governor Carcieri submitted M. Carl Heintzelman, CLU to the Senate for advice and consent to replace the position vacated by Ponzi A. Angelone. Treasurer Tavares said the matter is still pending before the Senate.

Treasurer Tavares updated the Board on Separation of Powers. He apprised the Board of a committee hearing held in the House on March 30, 2006 at which he and Mr. Beardsley testified. The Treasurer apprised the Board that at the hearing, there was discussion that gave indications of a possible consideration that the Retirement Board is a non-executive board and thus, is exclusive from Separation of Powers. The Treasurer said Attorney O'Gara has been conducting extensive research that would

support that position. He said either a new bill or an amended bill would be submitted shortly by his office.

#### **IV. Executive Director's Report**

Director Karpinski provided the Board with the pension application processing report for the month of March 2006.

Mr. Boyce asked Director Karpinski about the status of the number of outstanding Full Time Equivalents (FTE) in the retirement division. Director Karpinski said they have hired an Accounting Manager who will start the week of April 17, 2006. He also indicated that interviews for two Administrative Aide positions are commencing and interviews for one position in the Information Technology department are in the process. The Director said that once those positions are filled, only one FTE would be outstanding.

#### **V. Administrative Decisions**

##### **Disability Appeals**

*None this month*

##### **Hearing Officer Decisions**

###### **Kathleen Savage vs. ERSRI**

Director Karpinski apprised the Board that he had forwarded another letter to the Central Falls School District mandating definitive clarification on whether or not the position Ms. Savage held as a Special Education Resource teacher was the only position available. He told the Board that a copy of the response from the Central Falls School District was enclosed in their board book. The letter confirmed that the position Ms. Savage held was in fact the only position available.

The Director said the letter satisfies the requirement established by the Board and therefore Ms. Savage will be granted full-time service credit for the period requested. Director Karpinski then recommended to the Board that they not accept the decision of the hearing officer and permit Ms. Savage to obtain credits as requested.

On a motion by Michael R. Boyce and seconded by James P. Yancy, it was unanimously

**VOTED: To overturn the hearing officer's decision based on additional information submitted and permit Ms. Savage to be granted full-time service credit consistent with the policy established by the Retirement Board.**

## **VI. Approval of March pensions as presented by ERSRI**

On a motion by Michael R. Boyce and seconded by Linda C. Riendeau, it was unanimously

**VOTED: To approve the March pensions as presented by ERSRI.**

## **VII. Legal Counsel Report**

Attorney O’Gara referred Board members to the legal report in the Board book and asked if there were any questions. He then provided the Board with an update on the matter of former Judge Marjorie Yashar’s pension. Attorney O’Gara informed the Board that the Attorney General’s office initiated an action in Superior Court seeking declaratory relief on the validity of eight (8) months of service granted to her by the courts. Attorney O’Gara told the Board that although the Employees’ Retirement System of Rhode Island (ERSRI) does no more than process the payments for the court administered pay-as-you-go pension, ERSRI is named as plaintiff in the matter as a means of receiving instruction from the court on the retirement allowance to be paid to Judge Yashar.

Attorney O’Gara then apprised the Board of three state employees who entered pleas in court for crimes committed while working for the state. The issue was whether these individuals were subject to the pension revocation statutes. Two of the cases were settled as misdemeanors, one being a Department of Transportation employee accused of stealing gasoline with a value of less than \$500.00. That matter was disposed of with a plea of nolo contendere with a filing, which is not a conviction under the pension revocation statute. The other matter involved a state employee who pled nolo contendere to wrongful conversion of less than \$1,000, which is a misdemeanor, and was given probation. Attorney O’Gara told the Board that both matters did not necessitate Board action because they were not convictions under the pension revocation statutes.

The last case involved a state worker who was employed by the Department of Elderly Affairs. The member was charged with wrongful conversion of state money for one week’s pay. The member was under surveillance for only one week and it was found that the member was working at his own private business on state time. The member entered an “Alford” plea and he received a deferred sentence. Attorney O’Gara told the Board he contacted the Attorney General’s Office to seek guidance on the type and impact of the plea made by the member. He said that the Attorney General’s Office had advised him the “Alford” plea is a nolo contendere plea and that if the member was not involved in any criminal activity during the next five years, no sentence would be imposed. For those reasons, Attorney O’Gara noted that there were obstacles to revocation and recommended the Board not pursue the matter relating to pension revocation because the sentence was not a conviction under the pension revocation statute.

Mr. Beardsley asked Attorney O’Gara if this member’s service is considered honorable even though the criminal activity only spans one week of the members pay. Mr. Beardsley felt it was difficult for the Board to reconcile the member’s actions as being

honorable and felt that pleading nolo and not being considered by the Board for revocation may be inappropriate. Attorney O’Gara agreed that the service is not honorable but pointed out that the statutes do not address the plea type.

Ms. Booth Gallogly asked how the Board would know if the member with deferred sentence has maintained good behavior within the time prescribed. Attorney O’Gara indicated that the Attorney Generals office would inform the ERSRI of any state or municipal member who was involved in any criminal activity.

On a motion by William B. Finelli and seconded by Linda C. Riendeau, it was unanimously

**VOTED: To approve the Legal Counsel report as presented.**

## **VIII. Committee Reports**

**Disability Subcommittee:** The Disability Subcommittee recommended the following actions on disability applications as the result of its April 7, 2006 meeting for approval by the full Board:

Name	Membership Group	Type	Action
1. James Dwyer	Municipal	Ordinary	Approve
2. Roseanne Lyskawa	State	Ordinary	Approve
3. John Souza	Municipal	Ordinary	Approve
4. Julianne Whitecomb	Teacher	Ordinary	Approve
5. Deborah Ambeault	Municipal	Accidental	Table
6. Carl Bowley	Municipal	Accidental	Approve
7. Lisa Brissette	Teacher	Accidental	Approve
8. Maribeth Crook	Teacher	Accidental	Table
9. Elinor DeOrsey	Teacher	Accidental	Deny
10. Christine Wagner	State	Accidental	Approve
11. Dale Gerritsen	State	Ordinary	Deny
12. Nellie Francis	Teacher	Accidental	Continued
13. Anthony Tartaglia	State	Accidental	Table
14. Dora Noury Keating	State	Accidental	Deny

On a motion by William B. Finelli and seconded by Michael R. Boyce it was unanimously

**VOTED: To approve the recommendation of the Disability Sub-Committee meeting on Friday, April 7, 2006 on items 1 - 14.**

**IX. New Business**

None this month.

**X. Adjournment**

There being no other business to come before the Board, on a motion by Linda C. Riendeau and seconded by Rosemary Booth Gallogly, the meeting adjourned at 9:27 a.m.

Respectfully submitted,

**Frank J. Karpinski**

Executive Director